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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION Nos : 12491 of 1998 and 12396 of 1997

WRIT PETITION NO : 12396 of 1997

Between:

C. Ramesh Babu S/o Sri Ramanaiah,
Nagarjuna Nagar, Guntur District.

..... PETITIONER

AND

1 Registrar, Nagarjuna University,
Nagarjuna Nagar, Guntur District.
2 Vice Chancellor, Nagarjuna University,
Nagarjuna Nagar, Guntur District.

3. V.Manikyala Rao, S/o Venkata Subbaiah, Hindu,

Aged 42 years, Senior Assistant in Nagarjuna University,
Guntur.

4. Guggilam Venkateswara Rao, S/o late Subba Rao, aged 43 years, Senior Assistant in Nagarjuna University, Guntur.

5. P.Mallikarjuna Rao, S/o Ramaswamy, Hindu, aged 42 years, Senior Assistant in Nagarjuna Unliversity, Guntur.

(Respondents 3 to 5 are impleaded as per orders in W.P.M.P.No.15892 of 1998, dated 07-02-2005).

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, especially one in the nature of Mandamus i) declare the post of P.A to Registrar/Vice Chancellor in Nagarjuna University has to be filled

only by the Stenographers and not by the Senior Assistants as per the Notification dt.2-3-1989. ii) declare that the petitioner is eligible and entitled to be promoted as P.A. to Registrar/Vice Chancellor as per the existing rules issued in Notification dt.2.3.1989. iii) declare that the existing posts of P.A. to Registrar/Vice chancellor in Nagarjuna University cannot be filled by Senior Assistants in view of Notification dt.2-3-1989. iv) compel the respondents to promote the petitioner as P.A. to Registrar/Vice Chancellor Nagarjuna University as per the Notification dt. 2-3-1989.

Counsel for the Petitioner:MR.V.JOGAIAH SARMA

Counsel for the Respondents: SMT.C.JAYASREE SARATHY (SC-NAGARJUNA UNIVERSITY)

WRIT PETITION NO : 12491 of 1998

Between:

1. V.Manikyala Rao, S/o Venkata Subbaiah, Hindu, aged 42 years, Senior Assistant.
2. Guggilam Venkateswara Rao, S/o late Subba Rao, aged 43 years, Senior Assistant.
3. Mallikarjuna Rao, S/o Ramaswamy, Hindu, aged 42 years, Senior Assistant.

(All the petitioners are working in Nagarjuna University, Guntur)

..... PETITIONERS

AND

1. Nagarjuna University, rep. by its Registrar, Nagarjuna Nagar, Guntur.
2. Ch.Ramesh Babu, S/o Ramanaiah, aged 38 years, Stenographer, Nagarjuna University, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the resolution of the Executive Council, Nagarjuna University dated 15.03.1989 so far resolving and the Andhra University Ministerial Service Rules, 1974 and creating a separate channel of promotion for Steno-typist as Stenographer and P.A. to Vide Chancellor and Registrar and consequential notification of the University dated 02.03.1989 creating a separate channel for promotion of Steno-typist as Stenographers and P.A. to Vice Chancellor and Registrars as illegal, arbitrary and set aside the said proceedings by declaring the said proceedings as illegal, arbitrary and contrary to the Andhra University Ministerial Service Rules, 1974.

Counsel for the Petitioners: MR.M.SUBBA REDDY

Counsel for the Respondent No.1: SMT.C.JAYASREE SARATHY (SC-NAGARJUNA UNIVERSITY) and Sri T.S.Haranath.

Counsel for the Respondent No.2: MR.V.JOGAIAH SARMA

The Court made the following :

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COMMON ORDER:

Heard Sri V.Jogayya Sarma, learned counsel appearing for the petitioners and also Sri T.S.Haranath, learned Standing Counsel appearing for the respondents-University.

Since common question arises in these two writ petitions, the same are being taken up together for disposal.

The facts necessary for disposal of these two writ petitions are that the petitioner in W.P.No.12396 of 1997 was initially appointed as a Steno-typist on 01.07.1982 and thereafter he was promoted as Stenographer on 02.03.1989 and since then he is working in that capacity, whereas the petitioners 1, 2 and 3 in W.P.No.12491 of 1998 were appointed as Junior Assistants and subsequently they were promoted as Senior Assistants on 15.07.1985, 10.03.1978 and 14.08.1985 respectively. The second respondent is working as Steno-typist.

The main grievance of the petitioners in these two writ petitions is in regard to the change of course adopted by the respondents-University in making the promotions to the posts of Superintendent, Secretary to Vice-Chancellor, Personal Assistant to Registrar etc. As per the existing Rules, it is contended that the petitioners fall well within the feeder channel as contemplated thereunder. Further the respondents are now trying to make amendments thereto while restricting only to certain categories. In fact, it is submitted that the petitioners have already exercised their option to be promoted as Personal Assistant to the Registrar and also other posts as contemplated thereunder. The respondents have also issued a notification on 02.03.1989 for effecting promotions and however the entire process is not yet completed. The respondents are selecting only from amongst the Senior Assistants

to such higher posts for promotion, which is quite contrary to the Rules. That apart, there is also serious attempt on the part of the respondents herein to amend the Rules so as to restrict the feeder channel only to one category i.e., Senior Assistants and depriving the others. Even otherwise any such amendment or change in the law would only have prospective in its application and they cannot be made retrospective. Since the notification is already issued and the petitioners have exercised their option, the process as contemplated has to be completed to its logical end without either being awaiting any amendment or giving effect to any such like amendment. It is also submitted that in these two writ petitions, due representations have already been made on 11.02.1997 and 22.01.1997 pointing out all these aspects and requesting them to consider their cases for promotion and in spite of the same, the respondents are trying to fill up the posts at their mercy without having regard to the rules and the petitioners are being deprived of their legitimate right for promotion. The said representations filed by the petitioners are still pending consideration. Neither any notice has been given nor any orders are passed thereon. Hence, these two writ petitions.

Contesting the claim of the petitioners, several objections have sought to be raised on behalf of the respondents herein including as to their entitlement. However, it is seen that this Court has given interim direction at the time of admission for considering the petitioners' case and the same is remained un-implemented on the ground that the petitioners are not entitled for any such promotions.

Having considered, in detail, the respective submissions made across the bar from both the sides and also on perusal of the material, the only question, which arises for consideration, is as to whether the petitioners are entitled for any such promotion as claimed under the Rules.

There is no dispute to the fact that the petitioners are working in such capacity as mentioned above and subsequent to their initial appointment, they were also promoted and discharging their duties. There is also no serious dispute to the fact that as per the existing Rules, the feeder channel as created for promotion to the various posts or various categories, of which the posts held by the petitioners also fell well within. However, no reason has been assigned as to why the petitioners' case has remained un-considered or as to why they cannot be given any such promotion when the respondents are opting for such posts among the other categories or anyone from the categories held by them. However, there is a move on

the part of the respondents herein to amend the rules taking away all such varied categories as a source for promotion and restrict the same to a particular category of Senior Assistants etc. The said amendment is still yet to see the light of the day and even before any such amendment has taken its shape and come into force, the respondents choose to make promotions from other categories. It cannot be said that the petitioners' case is un-considered by the respondents by making up such promotions to the persons from other categories. These are all matters, which have to be gone into in detail by the respondents themselves and take more pragmatic view in terms of law as existing. Since the representations are still remained un-considered for such promotions, there is absolutely no justification. In view of the same, it would suffice in the interest of justice the respondents have to consider the entire case aptly and come to a conclusion.

The writ petitions are accordingly disposed of directing the respondents to consider the representations filed by the petitioners herein on 11.02.1997 and 22.01.1997 and pass orders in accordance with law. The entire exercise shall be made within a period of one month from the date of receipt of a copy of this order. It is needless to mention that any promotions which have been given already will always be subject to the result of the final decision that would be taken in pursuance of the aforesaid representations.

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B. PRAKASH RAO, J

07th February 2005.

Chvn.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER.

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To

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1 Registrar, Nagarjuna University,
Nagarjuna Nagar, Guntur District.
2 Vice Chancellor, Nagarjuna University,
Nagarjuna Nagar, Guntur District.

3. Two C.D. copies.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

WRIT PETITION Nos.12396 OF 1997 AND 12491 OF 1998

07.02.2005